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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/467,712
Filing Date: December 20, 1999
Appellant(s): AMIN ET AL.

Terrance a Meador
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed Jan. 24, 2005.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

A statement identifying the related appeals and interferences, which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Invention

The summary of invention contained in the brief is correct.

(6) Issues

The appellant's statement of the issues in the brief is correct.

(7) Grouping of Claims

Appellant's brief includes a statement that claims 1-3,5,9-14,16,17,19,21,23-26,28-31,34,36-38,43,48,50-53,55-57 and 59-62 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

3 (8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

5,745,850	Aldermeshian et al.	4-1998
6,144,318	Hayashin et al.	11-2000
5,928,325	Shaughnessy et al.	7-1999
6,580,904	Cox et al.	6-2003
6,236,868	Lygas	5-2001

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1, 17, 19, 23, 26, 28, 30, 38, 43, 50, 52-53, 55, 57, 59, 60 are rejected under 35 U.S.C. 102(b). This rejection is set forth in a prior Office Action, mailed on Aug. 13, 2004.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 17, 19, 23, 26, 28, 30, 38, 43, 50, 52-53, 55, 57, 59, 60 are rejected under 35 U.S.C. 102(b) as being anticipated by Aldermeshian et al. (5,745,850).

Regarding claims 1, 26, 28, 55, 57, 59, 60, Aldermeshian discloses an apparatus and method for mobile telephone, comprising the steps of determining the proximity of a first telephone to a second telephone (see abstract, fig.1, elements 100, 102, 110, 112,

131-132, col.4, lines 42-47 and its description); initiating the transfer of call from the first telephone to the second telephone in response to the proximity (see col.4, line 48-col.5, line 7); receiving calls on the second telephones (see fig.1, elements 131 or 132, col.4, line 48-col.5, line 7 and its description).

Regarding claim 17, Aldermeshian further discloses nullifying the received call. However, It is inherent for the system to nullify the received call before transferring the message to another predetermined unit (see abstract, fig.1, col.4, lines 59-67).

Regarding claim 19, Aldermeshian further discloses the authorizing the call transfer prior to receive (see abstract, fig.1, col.4, lines 59-67 and its description).

Regarding claims 23, Aldermeshian further discloses wherein the first telephone includes a presentation mechanism, and in which authorization includes presenting the results of the call transfer authorization process to the user of first telephone (see abstract, fig.1, elements 100, 102, 110, 112, 131-132, col.4, lines 42-47, col.4, lines 59-67 and its description).

Regarding claims 30, 38, 43, 50, 52-53, Aldermeshian discloses a telecommunications system comprising a first telephone connected to the communications network (see abstract, fig.1, elements 100, 120 and its description); a second telephone connected to the communications network (see abstract, fig.1, elements 131 or 132, 140, and its description); a call transfer mechanism for transferring telephone calls from the first telephone to the second telephone in response to proximity of the first telephone to the second telephone (see abstract, fig.1, col.4, line 48-col.5, line 7 and its description).

Claims 2-3, 5, 9, 10-14, 16, 21, 24-25, 29, 31, 34, 36-37, 48, 51, 56, and 61-62 are rejected under 35 U.S.C. 103(a). This rejection is set forth in a prior Office Action, mailed on Aug. 13, 2004.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 2, 3, 5, 9-10, 16, 34, 36-37, 61-62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aldermeshian et al. (5,745,850) in view of Hayashin et al. (6,144,318).

Regarding claims 2, 34, 61-62, Aldermeshian discloses all the subject matters described in rejected claims 1 and 30, except for the first telephone includes a wireless location receiver. However, Hayashin discloses a navigation system that uses position of mobile unit to make call management decisions comprising a telephone includes a wireless location receiver, and in determining the proximity of the first to the second telephone using wireless location receiver data (see fig.1, element 2, col.4, lines 44-48). Thus, it would have been obvious to one having ordinary skill in the art at the time the

invention was made to use Hayashin's wireless location receiver in Aldermeshian's the system to allow the device to figure out precisely where it is on earth.

Regarding claims 3, 36, Hayashin further discloses the wireless location receiver is selected from the group consisting of GPS and short-range position beacon receiver (see fig.1, elements 21, 22 and col.4, lines 44-48).

Regarding claims 5, 9, 16, 37, Aldermeshian further discloses determining includes the first telephone collecting positional data to determined its proximity to the second telephone (see fig. 1, elements 102, 112, 131 or 132, col.4, lines 42-47 and col.13, lines 7-50).

Regarding claim 10, Aldermeshian further discloses the determining includes the short range transceivers being selected from group consisting of Bluetooth, infra-red, Home RF, wireless LAN, and radio transceivers (see col.4, lines 34 47).

Claims 11-13, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aldermeshian et al. (5,745,850) in view of Shaughnessy et al. (5,928,325).

Regarding claims 11, 31, Aldermeshian discloses all the subject matters described in rejected claim 1 and 30, except for the communication network includes a position node, mobile switching center, and a base station. However, Shaughnessy discloses a method of dynamically establishing communication of incoming messages to one or more user devices presently available to an intended recipient including a position node, mobile switching center, and a base station, in which determining includes the PN tracking the proximity of the mobile, and initiating includes the MSC paging telephone (see abstract, fig.1, elements 31, 33, col.2, lines 22-46). Thus, it

would have been obvious to one having ordinary skill in the art at the time the invention was made to combine Shaughnessy's proximity detector in Aldermeshian's invention to detect the close mobile stations in order to forward the incoming call to predetermined unit for improving in telecommunication system.

Regarding claims 12-13, Shaughnessy further discloses the MSC automatically initiating the call transfer (see fig.1, col.1, lines 62-67).

Claims 14, 21, 48, 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aldermeshian et al. (5,745,850) in view of Cox (6,580,904).

Regarding claims 14, 21, 48, and 51, Aldermeshian discloses all the subject matters described in rejected claims 1, 19, 30 and 43, except for using a star feature code, private code. However, star code and private code is well known, also disclose in Cox (see col.12, lines 19-23) and has been use widely in telecommunication devices. Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use these features to response to predetermined number to initiate command mode.

Claims 24-25, 29, 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aldermeshian et al. (5,745,850) in view of Lygas (6,236,868).

Regarding claims 24-25, 29, Aldermeshian discloses all the subject matters described in rejected claim 1, except the second telephone is an automobile mounted wireless telephone. However, Lygas discloses an apparatus for sensing the presence of a mobile telephone in its holder including the second telephone is an automobile mounted wireless telephone, in which determining that the proximity of the portable

telephone to the auto-mounted telephone meets a predetermined threshold (see fig.1, fig.2. col.4, lines 20-51). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the Lygas' automobile mounted wireless telephone in Aldermeshian's invention to detect the proximity of the portable telephone in order to improve in telecommunications system.

Regarding claim 56, Aldermeshian discloses all the subject matters described in rejected claim 30, except for second telephone mounted on mobile plat form. However, Lygas discloses an apparatus for sensing the presence of a mobile telephone including the platform in which said second telephone mounted on mobile plat form (see fig.1-2 and its description). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the Lygas' telephone mounted on mobile plat form in Aldermeshian's invention in order to improve in mobile communications system.

(11) Response to Argument

With respect to claims 1, 19, 23, 26, 28, 30, 38, 43, 50, 52, and 53, 55 and 57 Appellant argues, "Aldermeshian therefore omits the acts of "initiating the transfer from" and "receiving the calls on". The Examiner respectfully disagrees, in Aldermeshian's reference does disclose the "initiating the transfer from" and "receiving the calls on" (see figs.1, 5, 6, col.13, lines 30-54, The Aldermeshian's reference stated that, "Impersonation can be triggered by physical proximity of the devices, when they are within a predetermined distance from each other, this will, for example, allow a user of one device to relinquish call receiving ability to another device"), and also "the leader

might then effectively transfer incoming communications on her or his device to another person's device" (see col.13, lines 44-50). With this broadest reasonable interpretation respect to claims 1, 17, 19, 23, 26 and 28, the rejection should be sustained.

With respect to claims 59 and 60, Appellant argues, "Aldermeshian omits the means for "transferring telephone calls directed to the first telephone to the second telephone in response to the determination of proximity". The Examiner respectfully disagrees, The Aldermeshian's reference allow a user of one device to relinquish call receiving ability to another device (Examiner interprets as transferring telephone calls directed to the first telephone to the second telephone) (see col.13, lines 30-54) in predetermined distance from each other (Examiner interprets as in response to the determination of proximity). With this broadest reasonable interpretation respect to claims 59 and 60, the rejection should be sustained.

With respect to claims 2, 3, 34, 36 and 61-62, Appellant argues, "combination fails to meet the requirements for prima facie obviousness with respect to claims 2 and 34. As to claims 3 and 36, a call is transferred from the first telephone. No call is "transferred" in Aldermeshian". The Examiner respectfully disagrees, The Aldermeshian's reference using unit 603 in telephone device 600 to determine the proximity of telephone device of 610, and 620 to transfer the call (see fig.6, col.13, lines 44-50). Except for the wireless device using GPS and short range positioning. However, Hayashi disclose a navigation system including position-sensing unit using GPS (see fig.1, element 21) and Beacon position (see fig.1, element 21) to locate the position of device. Thus, it would have been obvious to one having ordinary skill in the art at the

time the invention was made to use Hayashin's wireless location receiver in Aldermeshian's the system to allow the device to figure out precisely where it is on earth. With this broadest reasonable interpretation respect to claims 2, 3, 34 and 36, the rejection should be sustained.

With respect to claims 5, 9, 10, 16 and 37, Appellant argues, "No basis is given in the Official Action for rejection of these claims". The Examiner respectfully disagrees, The Aldermeshian's reference determining includes the first telephone collecting positional data to determined its proximity to the second telephone (see fig.6, col.13, lines 30-54) The Aldermeshian's reference stated that, "Impersonation can be triggered by physical proximity of the devices, when they are within a predetermined distance from each other) and Hayashin's wireless location receiver using GPS and short range positioning to collect the position of device (see fig.1, element 21). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use Hayashin's wireless location receiver in Aldermeshian's the system to allow the device to figure out precisely where it is on earth. With this broadest reasonable interpretation respect to claims 5, 9, 10, 16 and 37, the rejection should be sustained.

With respect to claims 11-13 and 31, Appellant argues, "Aldermeshian does not disclose transferring calls from a first to a second" and "none of those cited locations or elements teaches or suggests a "PN" an "MSC" or a "base station". The Examiner respectfully disagrees; first Aldermeshian does disclose the "transferring calls". The Aldermeshian's reference using unit 603 in telephone device 600 to determine the proximity of telephone device of 610, and 620 to transfer the call (see fig.6.col.13, lines

44-50) and the Shaughnessy's reference discloses "PN" (see fig.1, element 40) and "MSC" or a "base station"(see abstract, fig.1, elements 31, 33, col.2, lines 22-46). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use Shaughnessy's proximity detector in Aldermeshian's invention to detect the close mobile stations in order to forward the incoming call to predetermined unit for improving in telecommunication system. With this broadest reasonable interpretation respect to claims 11-13 and 31, the rejection should be sustained.

With respect to claims 14, 17, 21, 48, and 51, Appellant argues, "Aldermeshian does not disclose transferring calls from a first to a second telephone". The Examiner respectfully disagrees, The Aldermeshian's reference stated that, "Impersonation can be triggered by physical proximity of the devices, when they are within a predetermined distance from each other, this will, for example, "allow a user of one device to relinquish call receiving ability to another device" (see figs.1, 5, 6, col.13, lines 30-54). It is clearly allowed a user transfer the phone calls from the first phone telephone to the second telephone in predetermined distance, meaning response to their proximity. With this broadest reasonable interpretation respect to claims 14, 17, 21, 48, and 51, the rejection should be sustained.

With respect to claims 24, 25, 29, 56, Appellant argues, "Aldermeshian does not disclose transferring calls from a first to a second telephone". The Examiner respectfully disagrees, The Aldermeshian's reference stated that, "allow a user of one device to relinquish call receiving ability to another device" (see fig.6, col.13, lines 30-54). It is

clearly allowed a user transfer the phone calls from the first phone telephone to the second telephone in predetermined distance, meaning response to their proximity. With this broadest reasonable interpretation respect to claims 24, 25, 29, 56, the rejection should be sustained.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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May 14, 2005

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